

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

Chambers of
George L. Russell, III
United States District Judge

101 West Lombard Street
Baltimore, Maryland 21201
410-962-4055

July 10, 2020

MEMORANDUM TO COUNSEL RE: Mayor and City Council of Baltimore v.
Alex M. Azar, III, et al.
Civil Action No. GLR-19-1672

Dear Counsel:

On November 12, 2019, the Court convened a teleconference to discuss the City's Motion for Preliminary Injunction (ECF No. 14) and the Cross Motions for Summary Judgment (ECF Nos. 44, 50), considering the decision issued in New York v. U.S. Dep't of Health & Human Servs., 19 Civ. 4676, Dkt. 248 (S.D.N.Y. Nov. 6, 2019), invalidating the Rule at issue in this case.

During the call, the City conceded that it could not, at that time, establish imminent, irreparable harm given the impact of the Southern District of New York's ruling and, on January 23, 2020, the City submitted a Line Filing, withdrawing its Motion for Preliminary Injunction without prejudice. (See ECF No. 103). The Court also dismissed the parties' Cross Motions for Summary Judgment without prejudice, pending the outcome of any appellate proceedings. (See ECF No. 102).

On April 20, 2020, the parties submitted a Joint Status Report indicating that the Defendants had indeed filed a notice of appeal in the United States Court of Appeals for the Second Circuit. (Apr. 20, 2020 Joint Status Rep., ECF No. 105). Briefing is expected to be completed by September 7, 2020. (Id. at 1). Additionally, Defendants have appealed decisions issued by the United States District Court for the Eastern District of Washington and by the United States District Court for the Northern District of California vacating the Rule at issue in this case. (Id. at 1-2).

Given the ongoing appellate proceedings and to remain consistent with this Court's previous rulings, the Court DENIES the following motions without prejudice, subject to being reopened and reinstated at any time through a Line Filing:

1. Motion for Leave to File Amici Curiae Brief by Scholars of the LGBT Population (ECF No. 46);
2. Unopposed Motion of the Institute for Policy Integrity for Leave to File Amicus Curiae Brief in Support of Plaintiff's Cross-Motion for Summary Judgment (ECF No. 49);
3. Unopposed Motion for Leave to Submit Brief of Leading Medical Organizations as Amici Curiae in Support of Plaintiff's Opposition to Defendants' Motion to Dismiss

- or, in the Alternative, Motion for Summary Judgment (ECF No. 54);
4. Motion for Leave to File Brief of Amici Curiae National Center for Lesbian Rights et al. in Support of Plaintiff's Motions for a Preliminary Injunction and for Summary Judgment (ECF No. 59);
 5. Notice of Motion and Unopposed Motion to File Brief as Amici Curiae (ECF No. 87);
 6. Unopposed Motion for Leave to File Brief of 14 Local Government Amici Curiae in Support of Plaintiff's Motion for Summary Judgment (ECF No. 90); and
 7. The Anti-Defamation League's Unopposed Motion for Leave to File Amici Curiae Brief in Support of Plaintiff's Opposition to Defendants' Motion to Dismiss or, in the Alternative, Motion for Summary Judgment (ECF No. 91).

The parties SHALL FILE a Joint Status Report no later than Friday, November 6, 2020 informing the Court of the status of the appellate proceedings.

Despite the informal nature of this memorandum, it shall constitute an Order of the Court, and the Clerk is directed to docket it accordingly.

Very truly yours,

/s/

George L. Russell, III
United States District Judge